

AMENDED IN ASSEMBLY MAY 2, 2007

AMENDED IN ASSEMBLY APRIL 23, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

## ASSEMBLY BILL

**No. 45**

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**Introduced by Assembly Member Swanson**

**(Coauthors: Assembly Members Bass, Beall, Carter, DeSaulnier,  
Dymally, Eng, Hancock, Hayashi, Parra, Price, and Richardson)**

December 4, 2006

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An act to add Section 41329.4 to the Education Code, relating to the Oakland Unified School District.

### LEGISLATIVE COUNSEL'S DIGEST

AB 45, as amended, Swanson. Oakland Unified School District: governance.

(1) Existing law requires the Superintendent of Public Instruction to assume all the rights, duties, and powers of the governing board of the Oakland Unified School District and to appoint an administrator to act on behalf of the Superintendent in exercising the authority of the Superintendent over the school district. Existing law continues the authority of the Superintendent and the administrator over the school district until certain enumerated conditions are met, including the completion of an improvement plan for the district. Existing law requires the County Office Fiscal Crisis and Management Assistance Team (FCMAT) to prepare the improvement plan for the school district, as provided, by July 1, 2003, and requires the FCMAT to report on the implementation of the plan, as specified.

This bill would require FCMAT, on or before March 1 of each year, commencing March 1, 2008, until authority for all operational areas

has been returned to the governing board of the Oakland Unified School District, to prepare and submit to the *Legislature, the Superintendent, and the governing board of the school district* a progress report on the district's assessment and recovery plan. On or before April 1 of each year, commencing on April 1, 2008, until authority for all operational areas has been returned to the governing board, the governing board and the state administrator appointed by the Superintendent would be required to agree on and execute a memorandum of understanding regarding the details of returning authority for one or more of the operational areas recommended for return to the school district in the most recent progress report submitted by FCMAT. The Superintendent would be required to return the authority for an operational area for which the annual FCMAT progress report recommends authority be returned to the governing board by July 1 of the year ~~following the year~~ in which the report is submitted. The state administrator would be required to retain authority over, or the Superintendent would be ~~required~~ *authorized, in his or her sole discretion,* to return to the ~~State~~ *state* administrator authority over, any one or more operational areas that FCMAT recommends in its annual report be within the authority of the state administrator. The reversion of any authority to the state administrator would be required to occur by July 1 of the year following the year in which the report is submitted. *Subject to an appropriation in the annual Budget Act or other statute, an amount not to exceed \$145,000 annually would be allocated to FCMAT to cover costs associated with its responsibilities pursuant to this bill.*

(2) Existing law requires the governing board of the Oakland Unified School District to serve without compensation as an advisory body during the period that the Superintendent is exercising authority over the district.

This bill would entitle the members of the governing board to receive full compensation for services related to *one or more* operational areas ~~for which, once authority for that area or areas~~ is returned to the governing board, that they would have received prior to the transfer of authority to operate the district to the Superintendent.

(3) By requiring FCMAT to perform additional duties, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(4) This bill would declare that due to the unique circumstances regarding governance of the school district, a general statute cannot be made applicable.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) Providing a quality education that meets the unique needs  
4 of Oakland public school pupils is a fundamental goal that should  
5 not be jeopardized. On September 30, 2006, the County Office  
6 Fiscal Crisis and Management Assistance Team (FCMAT)  
7 recommended, in its fourth progress report on the assessment and  
8 recovery plan of the Oakland Unified School District, that the  
9 operational area of community relations and governance be  
10 returned to the district, and reported that the district has made  
11 continued progress in the operational areas of facilities management  
12 and pupil achievement.

13 (b) The Oakland Unified School District has been in state  
14 receivership since 2003. During that time new members,  
15 constituting a majority of the board, were elected to the governing  
16 board of the district.

17 (c) State receivership is intended to be a process for recovery,  
18 and FCMAT's comprehensive review has demonstrated tangible  
19 progress by the Oakland Unified School District.

20 (d) The Oakland Unified School District has made notable  
21 academic improvements over the last few years, demonstrated by  
22 test score improvements, an increased number of fully credentialed  
23 teachers in Oakland classrooms, and increased parental and  
24 community involvement. In 2006, the Oakland Unified School  
25 District made the largest improvement in API test scores among  
26 the 33 largest unified school districts in California.

27 (e) The governing board and the community of the Oakland  
28 Unified School District have the will to continue the key

1 educational reforms that have benefited Oakland public school  
2 pupils in the last three years and to support difficult decisions in  
3 order to immediately eliminate all further overspending by the  
4 district.

5 (f) The governing board of the Oakland Unified School District  
6 is voluntarily undergoing training in the responsibilities and proper  
7 conduct of a school district governing board. The training began  
8 in January 2007 and will be completed in June 2007.

9 (g) *In its Fourth Progress Report on the Assessment and*  
10 *Recovery Plan of the Oakland Unified School District, FCMAT*  
11 *stated as follows:*

12 *“In collaboration with the California Department of Education,*  
13 *FCMAT established the following criteria to measure the district’s*  
14 *progress. When the average score of the subset of standards in an*  
15 *operational area reaches a level of six and it is considered to be*  
16 *substantial and sustainable, and no individual standard in the*  
17 *subset is below a four, FCMAT will recommend to the*  
18 *Superintendent of Public Instruction (SPI) that this particular*  
19 *condition of SB 39 has been met and that this operational area*  
20 *could be returned to the Governing Board.”*

21 SEC. 2. It is the intent of the Legislature that the state  
22 administrator appointed pursuant to subdivision (b) of Section 4  
23 of Chapter 14 of the Statutes of 2003 and the governing board of  
24 the Oakland Unified School District begin the process of a  
25 structured and orderly return of authority over the operational areas  
26 of community relations and governance, pupil achievement,  
27 personnel management, facilities management, and fiscal control  
28 from the Superintendent of Public Instruction back to the governing  
29 board of the Oakland Unified School District, pursuant to annual  
30 FCMAT progress-reviews reports and recommendations on any  
31 operational areas that should be returned to the control of the  
32 governing board.

33 SEC. 3. Section 41329.4 is added to the Education Code, to  
34 read:

35 41329.4. (a) For purposes of this section, “operational areas”  
36 means the operational areas of community relations and  
37 governance, pupil achievement, personnel management, facilities  
38 management, and fiscal control.

39 (b) On or before March 1 of each year, commencing on March  
40 1, 2008, until authority for all operational areas has been returned

1 to the governing board of the Oakland Unified School District, the  
2 County Office Fiscal Crisis and Management Team (FCMAT)  
3 shall prepare and submit to *the Legislature*, the Superintendent,  
4 and the governing board of the school district a progress report on  
5 the district's assessment and recovery plan. *In preparing progress*  
6 *reports pursuant to this subdivision, FCMAT shall use the same*  
7 *standards, scoring methodology, and evaluative threshold that it*  
8 *used in preparing its Fourth Progress Report on the Assessment*  
9 *and Recovery Plan of the Oakland Unified School District.*

10 (c) On or before April 1 of each year, commencing on April 1,  
11 2008, until authority for all operational areas has been returned to  
12 the governing board, the governing board and the state  
13 administrator appointed by the Superintendent pursuant to  
14 subdivision (b) of Section 4 of Chapter 14 of the Statutes of 2003  
15 shall agree on the details of returning authority, *and the resulting*  
16 *division of responsibilities*, for any of the operational areas  
17 recommended for return to the school district in the most recent  
18 progress report submitted by FCMAT. The agreement shall be  
19 made in the form of a memorandum of understanding (MOU)  
20 executed by both parties.

21 (d) If the governing board and the state administrator fail to  
22 reach an agreement by April 1 pursuant to subdivision (c), the  
23 governing board, by May 1 of that year, shall produce a statement  
24 to be used in lieu of the MOU to govern the details of returning  
25 authority, *and the resulting division of responsibilities*, for  
26 operational areas to the governing board. The statement shall  
27 become operative for purposes of governing the details of returning  
28 authority for operational areas to the school district unless the  
29 Superintendent, by June 1, presents just cause to an administrative  
30 law judge of the Office of Administrative Hearings that the  
31 statement should be modified.

32 (e) Notwithstanding any provision of Chapter 14 of the Statutes  
33 of 2003, the Superintendent shall return authority for an operational  
34 area for which the annual progress report prepared and submitted  
35 by FCMAT recommends the authority be returned to the governing  
36 board by July 1 of the year ~~following the year~~ in which the report  
37 is submitted.

38 (f) Notwithstanding any provision of Chapter 14 of the Statutes  
39 of 2003, the state administrator shall retain authority over, or the  
40 Superintendent of Public Instruction ~~shall may~~, *in his or her sole*

1 *discretion*, return to the state administrator authority over, any one  
2 or more operational areas that FCMAT recommends in its annual  
3 report be within the authority of the state administrator. The return  
4 of any authority to the state administrator shall occur by July 1 of  
5 the year following the year in which the report is submitted.

6 (g) Notwithstanding any provision of Chapter 14 of the Statutes  
7 of 2003, the members of the governing board shall be entitled to  
8 receive the full compensation for services ~~related to operational~~  
9 ~~areas for which authority~~, *once authority for one or more*  
10 *operational areas* is returned to the governing board pursuant to  
11 this section, that they would have received prior to the  
12 Superintendent originally assuming authority for all of the  
13 operational areas.

14 (h) *Subject to an appropriation for this purpose in the annual*  
15 *Budget Act or other statute, an amount not to exceed one hundred*  
16 *forty-five thousand dollars (\$145,000) annually shall be allocated*  
17 *to FCMAT to cover costs associated with its responsibilities*  
18 *pursuant to this section.*

19 SEC. 4. The Legislature finds and declares that due to the  
20 unique circumstances regarding governance of the Oakland Unified  
21 School District, a general statute cannot be made applicable within  
22 the meaning of Section 16 of Article IV of the California  
23 Constitution.

24 SEC. 5. If the Commission on State Mandates determines that  
25 this act contains costs mandated by the state, reimbursement to  
26 local agencies and school districts for those costs shall be made  
27 pursuant to Part 7 (commencing with Section 17500) of Division  
28 4 of Title 2 of the Government Code.